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9

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12 **SOUTHERN DIVISION**

13 SARA RAYMOND and MICHELLE
14 O'BRIEN individually and on behalf of
15 all others similarly situated,

16 Plaintiffs,

17 v.
18 KIA AMERICA, INC.,

19 Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiffs Sara Raymond and Michelle O'Brien ("Plaintiffs"), by and through
2 their undersigned counsel, bring this action individually and on behalf of all others
3 similarly situated against Defendant Kia America, Inc. ("Defendant" or "Kia"), and
4 allege as follows:

5 **NATURE OF THE ACTION**

6 1. Plaintiffs bring this action individually and on behalf of a class of
7 similarly situated purchasers and lessees of Kia's model year 2020-2024 Telluride
8 vehicles ("Vehicles" or "Class Vehicles").

9 2. As alleged herein, the Class Vehicles are defective and unsafe. They
10 contain a dangerous and potentially life-threatening defect that results in their brakes
11 malfunctioning, becoming intermittently non-operational, and failing altogether (the
12 "Defect"). This poses a significant and obvious safety hazard to drivers and
13 occupants of Class Vehicles, and puts the lives of Vehicle drivers and occupants,
14 and other drivers on the road at risk. Braking failures create the risk of rear end
15 collisions and crashes and prevent a driver from stopping on command. As discussed
16 below, numerous consumers have experienced the Defect while operating a Class
17 Vehicle.

18 3. The Defect manifests when the hydraulic pressure fails on the brake
19 pedals, causing the pedal to fall to the floor and become "spongy." When this occurs,
20 drivers attempting to engage the brakes (i.e., press the brake pedal) cannot do so
21 reliably or effectively.

22 4. Kia is aware of and has identified the root cause of the Defect, including
23 through internal documents and reports addressing the brake failure in the Class
24 Vehicles. On information and belief, the Defect results from a compromise in the
25 Vehicle's braking system, namely in the master cylinder, that reduces brake fluid
26 pressure. This results in "spongy" brakes that have no pressure and which cannot be
27 engaged, fall to the floor, and do not work.

1 5. Despite the serious issues posed by the Defect, Kia has omitted this
2 material information from consumers and has not issued a recall or reliable fix. Class
3 Members are thus left in the lurch, driving vehicles with brakes that could
4 unexpectedly fail at any moment.

5 6. Plaintiffs bring this action to obtain redress for themselves and those
6 who have purchased or leased Vehicles across the United States. Plaintiffs seek relief
7 for Kia's breaches of implied warranties, fraud, unjust enrichment, and violations of
8 consumer protection law. They also seek declaratory and injunctive relief to prevent
9 Kia's continued misconduct, and to require it to issue an appropriate fix.

JURISDICTION AND VENUE

11 7. This Court has subject matter jurisdiction under 28 U.S.C.
12 § 1332(d)(2)(A) because the claims relating to the matter in controversy exceed \$5
13 million, the proposed classes have at least 100 members, and this is a class action in
14 which certain of the class members (including Plaintiffs) and Kia are citizens of
15 different states.

16 8. Venue is proper in this judicial District under 28 U.S.C. § 1391 because
17 Kia is headquartered in this judicial District, Kia conducts significant business
18 throughout this District, and a substantial part of the acts and omissions giving rise
19 to Plaintiffs' claims occurred in, or emanated from, this District.

20 9. At all pertinent times, Kia was engaged in the marketing,
21 advertisement, sale, and lease of the Class Vehicles, which are the subject of this
22 lawsuit, in this District and throughout the United States.

PARTIES

Plaintiff Sara Raymond

25 10. Plaintiff Raymond is an adult who resides in and is a citizen of Spring,
26 Texas. In or about mid-2023, Plaintiff purchased a new 2023 Telluride from
27 Demontrond Kia, an authorized Kia dealership located in Houston, Texas. Plaintiff
28 uses her Class Vehicle for family and household purposes.

1 11. On or around November 7, 2024, the brakes on Plaintiff's Vehicle
2 failed. Specifically, the brakes suddenly and without warning had no pressure. The
3 vehicle crested a hill, picked up speed, and could not slow down. This ultimately
4 resulted in a collision with another car.

5 12. In the aftermath, Plaintiff's car has been at the Kia dealership and Kia
6 body shop for approximately six weeks. Despite communicating her need for a
7 loaner vehicle from Kia, the dealership has not provided Plaintiff with a loaner
8 vehicle. This has resulted in Plaintiff Raymond paying for a rental vehicle on a
9 weekly basis due to Kia's inability to provide a timeline for repairs on her vehicle.

10 13. Because of the Defect, and Kia's inability or refusal to permanently
11 remedy the issue, Plaintiff continues to be exposed to a—and is very concerned
12 about an ongoing—serious safety risk associated with brake failure in the Class
13 Vehicle.

14 14. At the time of purchasing the Vehicle, Plaintiff did not know that the
15 Vehicle contains an unsafe Defect that causes brake failure and can result in a crash,
16 and that Plaintiff would not be able to safely drive the Vehicle without risk of the
17 brakes failing. Had Kia disclosed the Defect on its website, through its dealership,
18 in its warranty manual, or elsewhere prior to purchasing the Class Vehicle, Plaintiff
19 would not have purchased the Vehicle, or would not have paid the purchase price
20 that Plaintiff did. Plaintiff relied upon Kia that it was providing the full picture of
21 information regarding the Vehicle and relied upon the idea that Kia would not
22 withhold material information about safety defects in the Vehicle, including the
23 Defect. As a result, Plaintiff received less than what was paid for the Vehicle and
24 did not receive the benefit of Plaintiff's bargain.

25 15. In addition, Plaintiff sustained actual damages as a result of the Defect,
26 namely in out of pocket expenses brought about by November 7 incident caused by
27 the Defect. Plaintiff promptly had her vehicle towed to the Demontrond Kia
28 dealership, and then was told that the vehicle actually needed to be towed the

1 Demontrond Kia body shop, resulting in two tows costing the Plaintiff
2 approximately \$400. Plaintiff Raymond also has incurred approximately \$2,000 in
3 rental vehicle fees and payments because Kia did not provide Plaintiff with a rental
4 vehicle. Plaintiff anticipates incurring more rental vehicle fees while Kia inspects
5 her vehicle.

6 **Plaintiff Michelle O'Brien**

7 16. Plaintiff O'Brien is a resident of Olathe, Kansas. On October 25, 2024,
8 Plaintiff purchased a 2024 Telluride from Arapahoe Kia, an authorized Kia
9 dealership located in Denver, Colorado. Prior to purchasing the Vehicle, Plaintiff
10 spoke to three Kia dealerships near Olathe, Kansas, but none of them were able to
11 obtain the Vehicle in the exterior/interior color combination she preferred. Plaintiff
12 ultimately went to Denver to retrieve the vehicle from Arapahoe Kia, which had her
13 preferred color combination available. Plaintiff uses the Class Vehicle for family
14 and household purposes.

15 17. Plaintiff drove her Telluride for only approximately three weeks (with
16 750 miles on it) when the brakes first failed. This happened while she was driving
17 on a Meals on Wheels route. She tried to stop at her last stop when the brakes fell to
18 the floor due to loss of pressure. Only when she pushed down on the brakes with full
19 force did she feel minor resistance and came to a complete stop. Plaintiff was driving
20 through a large intersection at the time the brakes failed, but fortunately was able to
21 stop the car without incident.

22 18. Plaintiff had her car towed to Robert Brogden Kia in Olathe, Kansas.
23 The dealership claimed to have fixed the issue, so it would not provide her with a
24 loaner vehicle. However, the dealership was not able to adequately describe how
25 they fixed the issue, and so Plaintiff is reluctant to drive the Vehicle. Her Vehicle is
26 currently still at the dealership, as she does not feel safe driving it. Plaintiff reached
27 out to Kia Consumer Affairs, who advised her not to pick up the Vehicle.

1 19. Because of the Defect, and Kia's inability or refusal to permanently
2 remedy the issue, Plaintiff continues to be exposed to a—and is very concerned
3 about an ongoing—serious safety risk associated with brake failure in the Class
4 Vehicle.

5 20. At the time of purchasing the Vehicle, Plaintiff did not know that the
6 Vehicle contains an unsafe Defect that causes brake failure and can result in a crash,
7 and that Plaintiff would not be able to safely drive the Vehicle without risk of the
8 brakes failing. Had Kia disclosed the Defect on its website, through its dealership,
9 in its warranty manual, or elsewhere prior to purchasing the Class Vehicle, Plaintiff
10 would not have purchased the Vehicle, or would not have paid the purchase price
11 that Plaintiff did. Plaintiff relied upon Kia that it was providing the full picture of
12 information regarding the Vehicle and relied upon the idea that Kia would not
13 withhold material information about safety defects in the Vehicle, including the
14 Defect. As a result, Plaintiff received less than what was paid for the Vehicle and
15 did not receive the benefit of Plaintiff's bargain.

Defendant Kia America, Inc.

17 21. Defendant Kia America, Inc. is a California corporation organized, in
18 existence, and registered to do business in California under California law, with its
19 corporate headquarters located at 111 Peters Canyon Road, Irvine, California,
20 92606.

21 22. Kia markets, sells, and leases the Class Vehicles throughout the United
22 States, including in this District. Kia is responsible for sales, marketing, service,
23 distribution, import, and export of Kia-branded products, including vehicles and
24 parts, in California, and in the United States. Kia is also the warrantor and distributor
25 of Kia vehicles, including the Vehicles, in California and throughout the United
26 States.

27 23. Kia has thousands of authorized dealerships across the United States—
28 which are its agents—and controls the distribution of automobiles, parts, services,

1 and warranty repairs Kia vehicles throughout the United States, all of which are
2 under Kia's control. Kia authorizes these distributors and dealerships to sell Kia
3 vehicles, parts, and accessories and to service and repair Kia vehicles using Kia
4 parts. Kia exerts control over its dealership-agents through the technical service
5 bulletins and other repair guidance it issues to its dealerships relating to problems
6 arising with Kia vehicles, including the Defect in the Vehicles, and instructing
7 dealerships how to perform repairs; Kia's warranty directs Vehicle owners and
8 lessees to present their Vehicles to Authorized Kia Dealers for repairs and service;
9 and Kia requires authorized dealerships to submit detailed data to it regarding repairs
10 performed at dealerships.

11 24. Kia does substantial business in California, with a significant portion
12 of the sales and leases made in California. In fact, most of its work in sales,
13 marketing, distribution, import, export, and warranty of Kia-branded products,
14 including vehicles and parts, takes place in California.

15 25. California hosts a significant portion of Kia's U.S. operations,
16 including sales and service offices and financial service offices, among others. Kia's
17 research and design facilities are in California.

18 26. In addition, the conduct that forms the basis for each and every class
19 member's claims against Defendant emanated from Kia's headquarters in California
20 and is consistent with directives of Defendant's personnel in California.

21 **SUBSTANTIVE ALLEGATIONS**

22 27. This action is brought against Kia on behalf of Plaintiffs and all persons
23 who purchased or leased Kia's model year 2020-2024 Telluride vehicles. The
24 models and model years of vehicles comprising the Class Vehicles are subject to
25 revision based upon information learned through the discovery process.

26 28. Kia America, Inc. is the marketing and distribution arm of Kia Motors
27 Corporation based in Seoul, Korea. Headquartered in Irvine, California, Kia touts
28 itself as having "been the highest ranked mass market brand in initial quality for five

1 consecutive years according to J.D. Power, and is recognized as one of the 100 Best
 2 Global Brands by Interbrand.”¹ Kia “offers a complete range of vehicles sold through
 3 a network of nearly 800 dealers in the U.S.”²

4 29. In a press release published on Kia’s website, www.kiamedia.com, Kia
 5 quotes its president Michael Cole as stating, “Kia is committed to building the safest
 6 vehicles possible” and that the six Top Safety Pick (TSP) ratings Kia recently
 7 received from the Insurance Institute for Highway Safety (IHS) reflect Kia’s
 8 “commitment and reaffirms Kia’s continued effort to strive for safety improvement
 9 and advancement in every model” it produces.³

10 30. Kia sells Class Vehicles to its authorized distributors and dealerships,
 11 which, in turn, sell or lease those vehicles to consumers. After these dealerships sell
 12 cars to consumers, including Plaintiffs and members of the classes, they purchase
 13 additional inventory from Kia to replace the Vehicles sold and leased, increasing
 14 Kia’s revenues. Thus, Plaintiffs’ and class members’ purchases of Vehicles accrue
 15 to the benefit of Kia by increasing its revenues.

16 ***Overview of the Kia Telluride***

17 31. The Kia Telluride is a three-row SUV that was initially introduced in
 18 2019 as a 2020 model (first generation). Upon release, Kia announced “Today the
 19 all-new 2020 Kia Telluride made its official on-road and off-road debut, beginning
 20 a new adventure for Kia with its biggest and boldest SUV ever. . . . Imagined in
 21 America, designed at Kia’s design studio in California, and assembled in Georgia,
 22 the Telluride is the largest Kia ever. It provides comfortable seating for up to eight,
 23 a powerful 291-hp 3.8-liter V6, available active on-demand all-wheel drive, and an

24 ¹ KIA MEDIA, *Kia receives Six Top Safety Pick Ratings From Insurance Institute*
 25 *for Highway Safety* (Feb. 17, 2020),
 26 <https://www.kiamedia.com/us/en/media/pressreleases/16009/kia-receives-six-top-safety-pick-ratings-from-insurance-institute-for-highway-safety>.

27 ² *Id.*

28 ³ *Id.*

1 inspiring view of the world. The Telluride offers potential for exploration and
 2 adventure every time it's on the road.”⁴

3 32. In 2024, U.S. News & World Report named the Telluride in its “Best
 4 Cars for Families” award for the fifth year in a row.⁵ Kia touts that the award honors
 5 cars that “offer the best combination of safety, reliability, space, convenience, and
 6 connectivity.”⁶ It also describes the Telluride, which it designed for the U.S. market,
 7 as a “a head-turning proposition from the start.”⁷

8 33. In the press release, Kia quotes its Chief Operating Officer and
 9 Executive Vice President of Kia America, Steven Center, as stating, “The Telluride’s
 10 recognition as U.S. News & World Report’s best 3-row midsize SUV for families
 11 highlights the industry-leading quality of Kia’s technology, convenience and safety
 12 features, . . . Kia is honored to be named among the 2024 Best Cars for Families.”⁸

13 ***Braking Systems In Automobiles***

14 34. There are two types of brakes in use in cars today: disc brakes and drum
 15 brakes.⁹ Class Vehicles are equipped with disc brakes. Disc brakes feature brake
 16 pads that press against a rotor when the brake pedal is applied.¹⁰

17 ⁴ KIA MEDIA, *2020 Telluride Overview* (Mar. 19, 2019),
 18 <https://www.kiamedia.com/us/en/models/telluride/2020>.

19 ⁵ KIA MEDIA, *Kia Telluride Wins a 2024 Best Cars for Families Award from*
 U.S. News & World Report (Mar. 20, 2024)
<https://www.kiamedia.com/us/en/media/pressreleases/21947/kia-telluride-wins-a-2024-best-cars-for-families-award-from-us-news-and-world-report>.

21 ⁶ *Id.*

22 ⁷ KIA MEDIA, *Kia Telluride Named ‘Best Family Car of 2024’ by Cars.com*
 (Feb. 7, 2024) <https://www.kiamedia.com/us/en/media/pressreleases/21823/kia-telluride-named-best-family-car-of-2024-by-carscom>.

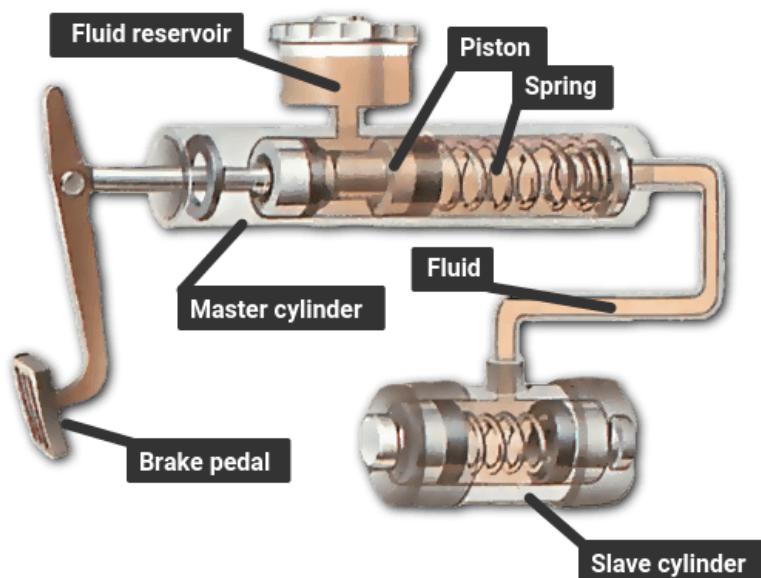
24 ⁸ *Kia Telluride Wins a 2024 Best Cars for Families Award from U.S. News &*
 World Report, *supra*.

26 ⁹ *How the Brake System Works*, WAGNER BRAKE,
<https://www.wagnerbrake.com/technical/parts-matter/driver-education-and-vehicle-safety/how-the-brake-system-works.html> (last visited Dec. 16, 2024).

28 ¹⁰ *Id.*

1 35. More specifically, when a brake pedal is depressed by the vehicle
2 operator, the pressure first flows to the brake booster, which then applies amplified
3 force by way of a pushrod to the master cylinder, which is located in the engine
4 compartment of a vehicle.¹¹

5 36. As illustrated below, the master cylinder then directs fluid to each of
6 the four wheels through metal tubes and braided hoses.¹² The fluid travels to the
7 slave cylinders at each wheel and fills them, forcing the pistons out to apply the
8 brakes.¹³



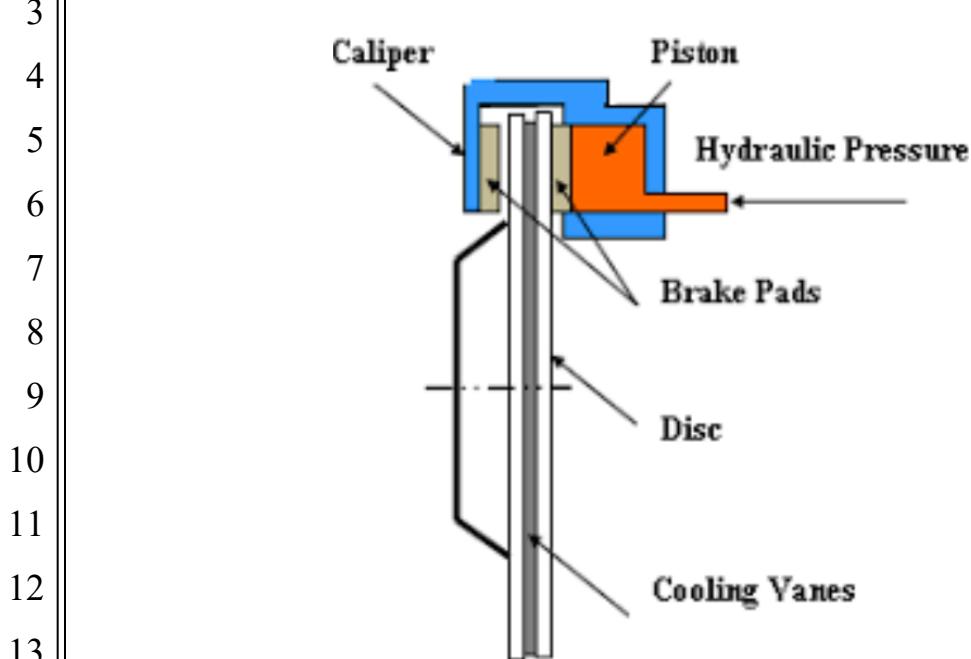
19 37. A disc brake has a disk that turns the wheel, and the disc is straddled by
20 a caliper, in which there are slave pistons that are operated by way of pressure from
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23 ¹¹ *How the Brake System Works, supra; Get to Know the Essential Parts of Your*
24 *Braking System, Firestone Complete Auto Care, (June 1, 2022),*
25 <https://www.firestonecompleteautocare.com/blog/brakes/parts-of-the-braking-system/>.

26 ¹² *How the Brake System Works, supra.*

27 ¹³ *How the Braking System Works, How A Car Works,*
28 <https://www.howacarworks.com/basics/how-the-braking-system-works> (last visited Dec. 16, 2024).

1 the master cylinder.¹⁴ The pistons press on friction pads that clamp against the disc
2 from each side to slow or stop the vehicle, as illustrated below:



14 ***The Defective Brakes and Braking Systems in the Telluride***

15 38. The Class Vehicles are equipped with defective brakes or braking
16 systems.

17 39. Plaintiffs' investigation is ongoing, and the root cause of the Defect will
18 be honed and pin-pointed through discovery in this litigation, but Plaintiffs'
19 investigation to date suggests, and they thus allege, that the Defect originates in the
20 master cylinder within the braking system, and may be involve air, impediments, or
21 a blockage in the brake lines, or otherwise an issue with hydraulic fluid transmission.

22 40. Brake failure in automobiles is unacceptable. It presents a severe safety
23 issue that can cause collisions leading to serious injury or death. Clearly, the Defect
24 presents a safety concern, and though numerous consumers have complained about
25 it and brought their Vehicles to Kia to address the Defect, Kia has failed to
26 adequately address the Defect, including failing to issue a recall.

27 28 ¹⁴ *Id.*

1 41. The internet is replete with complaints from Class Vehicle owners and
2 lessees who, like Plaintiffs, have experienced the unsafe Defect and resultant
3 malfunctioning or failing brakes. Kia did not repair or otherwise correct the Defect
4 in the Vehicles to permit Plaintiffs or class members to safely continue driving their
5 Vehicles without risk of their brakes failing.

6 42. Numerous online message board discussions and complaints highlight
7 the dangers posed by the Defect. A sampling of these are below:

¹⁵ (Complaints from Kia Telluride Forum)

P Jun 15, 2021 #6
PSDuque New Member
I have 2021 Telluride and experienced the same thing. Braking to the floor with some pumping of the brakes to stop. Took it to the dealer and was told that my lines were contaminated with a foreign liquid. Now my entire system has to be replaced. Stocksm what was the outcome of your situation??
Messages: 2 Likes: 0 Location: San Antonio, TX, USA

¹⁵, *Brakes Failing*, Kia Telluride Technical Forums (various users), <https://www.kiatelluride.org/threads/brakes-failing.1653/> (last visited Dec. 17, 2024).

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SP123

New Member

Messages: 1
Likes: 0
Location: Avon Lake, OH, USA

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Sep 23, 2021

#7

I had a similar incident with my 4-month old 2021 Telluride AWD w/ ~3,400 miles. While pulling the Telluride AWD into the garage, the brake pedal suddenly and without warning lost pressure, went limp and dropped to the floorboard. We could not stop the vehicle and crashed into the interior of the garage. The Telluride stopped after ramming into the foundation of the house at which point we could put it in park and brake functionality returned. It was a very frightening experience resulting in damage to the Telluride AWD, my home and personal property. My home surveillance captured the moment and the video is posted on YouTube:



Attachments



Unknown-1.jpeg

1.9 MB

Views: 19

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red
New Member
Messages: 3
Likes: 0
Location: Fort Worth, TX, USA

May 3, 2022

#9

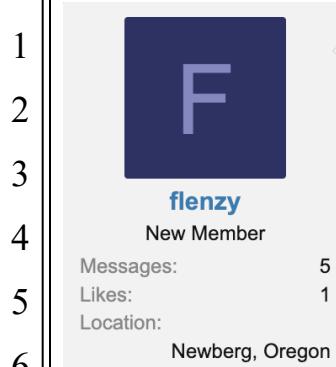
My wife recently experienced this extremely dangerous brake problem in our 2020 Telluride.

She was coming to a stop light and was able to slow to about 3-5 mph and when trying to come to a complete stop—well before she got near the other vehicle (which was a semi truck)—her brake was a wet noodle with no response. She was far enough away from the semi where she had enough time to try throwing it in neutral, reverse, and park while moving (because she was pumping the brake all the way up and down) and nothing happened. She eventually hit the semi's trailer. Three of my kids (16/15/8) were in the car and they witnessed the whole thing. Thankfully no one was injured. I immediately took her my truck and I slow crawled to Moritz Kia of Alliance Texas. I explained the issue and tried to share this thread with them and they had no interest in looking at it. They have had it for roughly 3 weeks and say it has no issues and is ready for pickup. I told them I have no interest in picking it up until this issue is fixed, given it's a life/death problem. I'd be a fool to put my wife and kids back in that vehicle!

Anyway, can one of you please tell me:

1. What your local dealer did to fix your brake problem?
2. Which specific Kia dealership fixed your issue so I can reach out to them?

Also if any of you have other ideas, I'd appreciate it. Thanks guys.



1 Apr 28, 2023

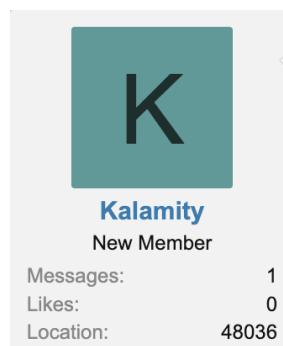
#13

2 red said:

3 I did everything I could to prove/convince them this happened and they said they tested
4 everything, drove it many times, and even consulted with Kia HQ engineers about it. They
5 maintained that everything was fine. So I told them I'm not picking it up until I was done
6 arguing with Kia HQ about it. My HQ rep was very hard to get a hold of and they were
7 useless and pretty much just told me to pursue Texas' lemon laws. After about 2-3 months
8 of this ordeal (with my Telluride still in the back of their lot because I wouldn't pick it up), I
9 filled out a form on their site to see what their online sales dept would offer me for it.
10 There's no way I was putting my wife/kids in that SHIV and there's no way I could sell
11

12 [Click to expand...](#)

13 Lordy, lordy. Believe it or not, it sounds as if you had better customer care than I
14 did here in Oregon (at Ron Tonkin Kia of Ron Tonkin Auto Group.) Had this exact
15 problem and got the absolutely rudest and dismissive 'service' there multiple
16 times, trying to gaslight me (an older female) about there being no problem at all -
17 'it's normal', 'it's the way you must drive', etc. My Kia went from being this amazing
18 car I'd had for a year and a half to a car I didn't trust at all. I fully suspect they are
19 trying to avoid any possibility of a class action lawsuit and have to do a recall,
20 therefore acting as if nothing is wrong at all. I am astounded at Kia's behavior
21 regarding this, as my car has slid into a worktruck, had to hit a curb to stop it, and
22 slid through two stop signs. I am so tempted to get legal advice regarding this
23 issue. I've never in my life been treated like this by any company and I find it
24 surprising. I would never buy a Kia again based on their treatment over the past
25 few weeks. I just know that they know they've got a problem here with the
26 Telluride. I've talked to groups of friends and anyone admiring the car and say "it's
27 great, until it's not, and then good luck." I'm so sorry you and your wife had to deal
28 with this. I'd never advise a woman to get this car nor deal with this dealership.
They had absolutely zero concern for my safety nor that of my passengers. Does
Kia seriously not read their own owners' forum nor care?



18 Sep 21, 2023

#14

19 2022 S, tried to park the other day and the brake pedal sunk to the floor. Took
21 about 10 seconds before it "woke up" again and I could stop. Dealer I took it to
22 today treated me like an absolute idiot, telling me it is wear and tear on the
23 vehicle, etc. considering selling it back after that experience today. They can't
24 replicate the problem so nothing is wrong, apparently. Not sure what to do at this
25 point besides sell it back, I don't feel like risking that happening on the highway.
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- 1 Sep 22, 2023 #15
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- F**
flenzy
New Member
Messages: 5
Likes: 1
Location: Newberg, Oregon
- I am positive that Kia is aware of this problem and is trying to gaslight owners into thinking they are imagining such a dangerous situation. They always said to me that they couldn't replicate the problem (which was frequent, although intermittent.) The Kia dealership I dealt with was horrid and finally they replaced a light (?) It was something that was recalled and I can't think of what it was. After they did that, the Telluride suddenly was driving perfectly and had its power back and the brakes have been fine since. Kia is fully aware of this and I'll bet don't want a class action lawsuit or similiar.
- K**
Kcam311
New Member
Messages: 1
Likes: 0
Location: 11741
- I just had the same issue this week. I had my infant in the car with me too. I was driving the streets in my neighborhood and after several minutes of driving without incidents all the sudden my brakes wouldn't work. I couldn't stop as I approached a stop sign and rolled right through an intersection. I couldn't stop till I was well on the other side of the intersection. Thank God no one was coming through the cross streets at the time or I would've been nailed with my infant in the car. I'm having the exact same horrible experience with the dealership. They are telling me now that there are no lights on my dashboard anymore and they drove my car and it is absolutely fine. they're crazy. Trying to get me to come and pick the car back up with how dangerous this is. I read that so many people here weren't accidents because of it. Thank God we were OK. They literally tried to get me to pick the vehicle up when they didn't even inspect the brakes or run any codes. And I don't know how, but all of the dashboard lights that came on right after it happened or miraculously off. Good thing I took a photo of them. This is really scary but this is happening repeatedly and there is no recall. It's unbelievable that the dealership is pretending that we are crazy and trying to get us to take really dangerous vehicles back. I seriously don't know what to do.
- T**
Texmexkent
New Member
Messages: 1
Likes: 0
Location: Louisville
- Oct 2, 2024 #23
- Our 2022 Telluride AWD brakes will drop out n reset while trying to stop. Took it to KIA in Louisville to look it over. Telluride has been there for 7 weeks now n still no answer. Was told the transportation board took over the inspection of the vehicle. Have a case number from KIA manufacturer in Irving, California. As for now nobody can drive it till it's released.
- KIA's not calling it a recall yet. Giving it two more weeks then Lawyering up. Nobody has no clue what causes this issue. Anyone have their Telluride pay back yet from the manufacture?
- Sent from my iPhone using Tapatalk

1 (From Telluride Forum)¹⁶

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Old Man
New member
Joined: Jan 15, 2024
Messages: 4
Reaction score: 1
Points: 1

Jan 15, 2024 #1

I leased a 2024 Kia Telluride 30DEC2023. I now have 630 miles on it and have a brake problem. When I stop at a stop light and have to wait my brake pedal will begin to creep and the car will begin to ease forward, I will push down on the brake pedal and the process will start again until the pedal no longer goes down. I will do a quick pump of the brakes and the process will start again. I suspect I have a problem with the master cylinder bypassing. I called Kia and had the car transported to the dealership. They did a scan and could find no leaks. They ran a smart check and it showed no codes. They called and told me to pick up the car as it had no problems. I pick up the car and had the same problems on the way home. When I reached home safely I put the car in park and put the parking brake on. With the engine running I then pushed on the brake pedal. The pedal slowly went all the way down. I repeated the process again. I am now not driving the car as I feel it could be dangerous. I intend to check with the dealership this week after our bad weather clears up. Any suggestions on how to proceed?
Thank you
Old Man

 Reply

 FeGee3

(From Reddit)¹⁷



r/KiaTelluride • 2 yr. ago
VariousDistance

...

2023 EX Telluride - "Brake Feel"

Greetings to all.

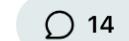
I have a '23 Telluride we picked up on 1/3/23 with 2,061 miles on it now. When applying the brakes I feel the urge to "pump them up" as I'm coming to a stop. Maybe you've driven an OLD car/truck and remember the sensation?

I have no indications of an issue from the vehicle sensors, just the sensation the pedal continues to move as I press it. Once stopped, there is no more movement. I intend to mention it at my first service.

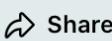
Has anyone else with a similar sensation? Any known/possible issues experienced?



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¹⁶ Telluride Forums, *New Owner Having a Problem with Brakes*, (various users) <https://tellurideforum.org/threads/new-owner-having-a-problem-with-brakes.15144/> (last visited Dec. 17, 2024).

¹⁷ u/VariousDistance, *2023 EX Telluride – “Brake Feel.”* REDDIT, https://www.reddit.com/r/KiaTelluride/comments/11a3kxn/2023_ex_telluride_b_rake_feel/ (last visited Dec. 17, 2024).

1 43. The following are some examples of complaints from owners and
2 lessees of the Vehicles concerning the Defect available through NHTSA's website¹⁸:

3 February 5, 2024 NHTSA ID NUMBER: 11570087



4 **Components: SERVICE BRAKES, FORWARD COLLISION
5 AVOIDANCE**

6 **NHTSA ID Number:** 11570087

7 **Incident Date:** December 1, 2023

8 **Consumer Location:** CINCINNATI, OH

9 **Vehicle Identification Number:** 5XYP5DHCXMG****

10 **Summary of Complaint**

11 CRASH Yes There were 2 lanes going in the same direction and I was on the
12 FIRE No right. The road was turning to the right and ended up hitting a
13 INJURIES 0 car in the lane on the right. Road conditions were wet but no
14 DEATHS 0 puddling. I depressed the brake pedal to reduce my speed for
15 the turn, but and I kept going as if I hadn't hit it at all. By moving
16 from the right to the left lane, the car was going up a slight bank.
17 There was no skidding, no rumbling from the anti-lock, just a
18 steady forward motion. I was so caught off guard with this
 unusual movement of the car that I thought my brakes had
 locked, so I didn't bother try turning the wheel.

18 See, e.g., NHTSA, <https://www.safercar.gov/recalls> (last visited Dec. 17, 2024).

1 April 3, 2023 NHTSA ID NUMBER: 11515156
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Components: SERVICE BRAKES, FORWARD COLLISION AVOIDANCE

4 NHTSA ID Number: 11515156

5 Incident Date March 12, 2023

6 Consumer Location HAVERTOWN, PA

7 Vehicle Identification Number 5XYP5DHC9MG****

8 Summary of Complaint

9 CRASH Yes While driving in a parking garage and going down a ramp to the
10 FIRE No next level, all of the lights on my dashboard popped on and the
11 INJURIES 0 brakes stopped working. The emergency brakes failed to work,
12 DEATHS 0 and we crashed into a wall/air conditioning unit. Luckily, we were
13 going slow since we were in a parking garage and did not hit
14 another car, but if we were on a highway and/ my entire family
15 were in the car, someone could have died not only in my car but
16 in other cars. The vehicle has been inspected by the dealership,
17 but only after 3 weeks, and I've had to call to get any sort of
18 communication from Kia. They have been horrible with
communication. They also have not offered guaranteed
reimbursement for a rental car nor have they offered a loaner.
Insurance has inspected the car from a collision perspective and
gave a quote on the damages. There were warning lights on as
we were going down the ramp when the brakes went out.

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1 September 30, 2022 NHTSA ID NUMBER: 11487334



2 **Components: SERVICE BRAKES**

3 **NHTSA ID Number:** 11487334

4 **Incident Date** September 15, 2022

5 **Consumer Location** COATESVILLE, PA

6 **Vehicle Identification Number** 5XYP54HCXMG****

7 **Summary of Complaint**

8 CRASH No While applying the brake at an approaching Stop sign the brake
9 FIRE No pedal was completely depress and the vehicle continued to roll
10 INJURIES 0 forward into the intersection. This happened twice in a week. Kia
11 DEATHS 0 dealer assessed the vehicle on two occasions and was unable
12 to find a fault. This could very well cause a major crash and
 impact the Safety of myself, my family and others on the
 roadway.

14 September 17, 2021 NHTSA ID NUMBER: 11433328



15 **Components: SERVICE BRAKES**

17 **NHTSA ID Number:** 11433328

18 **Incident Date** September 11, 2021

19 **Consumer Location** AVON LAKE, OH

20 **Vehicle Identification Number** 5xyp5dhc7mg****

21 **Summary of Complaint**

22 CRASH Yes The brakes on my 2021 Kia Telluride failed while pulling into my
23 FIRE No side entry garage. The Telluride's brakes went limp, losing
24 INJURIES 0 pressure and dropped to the floorboard. The Telluride crashed
25 DEATHS 0 into the interior of the garage, coming to a complete stop after
 slamming into the foundation of the house. Once stopped, the
 Telluride could be put in park and braking was restored. Home
 surveillance captured the event and it is available for viewing at:
 <https://youtu.be/Adj6tXyK57k>

1 June 19, 2023 NHTSA ID NUMBER: 11527744



2 **Components: STEERING, ELECTRICAL SYSTEM, SERVICE**

3 **BRAKES**

4 **NHTSA ID Number:** 11527744

5 **Incident Date** June 19, 2023

6 **Consumer Location** EATON, CO

7 **Vehicle Identification Number** 5XYP5DHC4NG****

8 **Summary of Complaint**

9 CRASH No Backed out of my driveway went about 100 yards down the
10 FIRE No street to make a left turn. I pushed on the brake and every
11 INJURIES 0 possible warning went off. ABS light, traction control, collision
12 DEATHS 0 warning, error messages kept coming on. The brake pedal went
13 to the floor. I continued to pump the brakes. Tried to put the
14 transmission into manual mode and downshift. That didn't slow
15 us down. Still continued to pump the brakes. Had to make a
16 right turn or jump the curb into a park. The steering was hard to
17 turn. Pulled the adaptive electric parking brake. Nothing. We
18 were going slightly down hill so had a little speed, but the car
19 came to a rest and the brakes worked. All the other warning
20 lights and error messages kept going off. Turned off the car and
21 started it again. Drove home and it has set there for 3 days. The
22 dealership is always closed on the weekends. I have lost
23 complete trust in this vehicle and in the manufacture.

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1 February 17, 2023 NHTSA ID NUMBER: 11507884
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Components: SERVICE BRAKES

3 NHTSA ID Number: 11507884

4 Incident Date January 31, 2023

5 Consumer Location VISALIA, CA

6 Vehicle Identification Number 5XYP2DHC0NG****

7 Summary of Complaint

8 CRASH Yes The contact owns a 2022 Kia Telluride. The contact stated while
9 FIRE No driving 3-5MPH and making a left turn, the brake pedal was
10 INJURIES 0 depressed but bounced back immediately and failed to respond.
11 DEATHS 0 The traction control, the Auto Hold feature, and the forward
12 collision avoidance warning lights were illuminated. The contact
13 message "Forward Collision Sensor" was displayed. The contact
14 depressed the brake pedal for a second time but the failure
15 persisted, causing the vehicle to hit the rear of another vehicle.
16 The contact stated it was a fender-bender. The air bags did not
17 deploy. The contact did not sustain any injuries. The contact
18 was unsure whether the occupants of the other vehicle
19 sustained injuries. There was no police report filed. The contact
20 was able to drive to his nearby residence. The vehicle was towed
21 to the dealer, where it was diagnosed that no issues were found.
22 The manufacturer was notified of the failure and informed the
23 contact that they would send an investigation team to
24 investigate the failure. However, the investigation team
25 investigated the failure remotely. The dealer later informed the
26 contact that the rear wheel speed sensor needed to be replaced.
27 The vehicle was not repaired. The failure mileage was
28 approximately 30,000.

1 February 18, 2024 NHTSA ID NUMBER: 11572624



2 **Components: ELECTRICAL SYSTEM, VEHICLE SPEED
3 CONTROL, SERVICE BRAKES**

4 NHTSA ID Number: 11572624

5 Incident Date February 16, 2024

6 Consumer Location NEWTON FALLS, OH

7 Vehicle Identification Number 5XYP6DGC4PG****

8 **Summary of Complaint**

9	CRASH	No	Snow Mode caused the vehicles accelerator and brakes to be
10	FIRE	No	unresponsive after stopping to turn. Kia could not duplicate the
11	INJURIES	0	issue through service inspection and test drive. Since no alerts
12	DEATHS	0	or sensors were tripped they ignore the safety concern. This
13			major safety issue is is very very common problem among
14			Telluride owners. A simple google search will reveal hundreds of
15			complaints. Note: A child was in the vehicle and this occurrence
			happened along an interstate with poor visibility and snowy road
			conditions.

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1 December 9, 2024 NHTSA ID NUMBER: 11629649
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Components: SERVICE BRAKES

3 NHTSA ID Number: 11629649

4 Incident Date December 5, 2024

5 Consumer Location OLATHE, KS

6 Vehicle Identification Number 5XYP5DGC7RG****

7 Summary of Complaint

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9 CRASH No The Brakes on this car had a failure. As the car was approaching
10 FIRE No a stop, the pedal went to the floor without any notable slowing
11 INJURIES 0 of the vehicle. Fortunately, there was not a car immediately in
12 DEATHS 0 front my Telluride or approaching from the side, so there was no
13 impact. The car was then towed to the Robert Brogden Olathe,
14 Kia and inspected. They reported that the ABS light was on and
15 that their was air in the brake line. Using a manual bleeding
16 procedure, the air was removed, but they have not found how
17 their air got into the line during the last mile. Obviously, Root
18 Cause for the air getting into the sealed system must be
19 identified for this car to be considered safe to drive. We took
20 delivery of this vehicle on [XXX] with fewer than 50 miles on the
odometer and it was inspected and tested for 100% of all
systems fully operational. During the first 700+ miles, the brakes
worked perfectly. Kia Service ticket it [XXX]. Kia Customer
Service Case Number [XXX]. INFORMATION REDACTED
PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5
U.S.C. 552(B)(6)

1 February 14, 2024 NHTSA ID NUMBER: 11571912
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Components: SERVICE BRAKES

3 NHTSA ID Number: 11571912

4 Incident Date January 11, 2024

5 Consumer Location CORPUS CHRISTI, TX

6 Vehicle Identification Number 5XYP3DGC3RG****

7 Summary of Complaint

8 CRASH No VEHICLE has 650 miles now. It was leased from Kia. I noticed
9 FIRE No the brakes fading when at a long stop light or stop sign. Vehicle
10 would start to roll/creep forward and brake pedal would drop
11 INJURIES 0 slightly. The longer the stop light the more this would happen.
12 DEATHS 0 When this happened as I was parking I left the vehicle and called
13 the Kia help number and had the vehicle transported to Kia
14 dealership. This was 10JAN2024. The dealership notified me
15 that they could find no problem. I picked the vehicle up and drove
16 home. The same problem occurred and I had the vehicle
17 transported to the dealership. They replaced the brake master
18 cylinder and ABS module. They notified me it was repaired.
19 When I check the brakes the pedal still slowly went down. I
20 refused to take the vehicle and left it at the dealership. The
21 vehicle had been at the dealership for over 30 days before they
22 notified me it was repaired.

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1 ***Kia Had Exclusive Knowledge that the Brakes or Braking Systems in the***
2 ***Vehicles are Defective***

3 44. At the same time Kia was selling the Class Vehicles to the car-buying
4 public, Kia was aware of the problems with Class Vehicles' brakes, both from the
5 internal validation and testing that Kia performed and from its past experience and
6 expertise.

7 45. Kia requires that each Vehicle component is tested for durability and
8 functionality before mass production. Kia employs several teams of engineers whose
9 work is focused on testing the functionality of the brakes in the Vehicles (including
10 the master cylinder and hydraulic functionality), including testing on the completed
11 vehicle, bench testing, road or simulation testing, validation test technicians, and
12 reliability test engineers responsible for guaranteeing full vehicle and component
13 performance for durability and functionality requirements.

14 46. As part of Kia's pre-sale testing, it performs road and stress tests on the
15 brakes in its vehicles over certain and set durations. Kia's testing replicates actual
16 consumer use of the Vehicles and the brakes in the Class Vehicles and would have
17 revealed to Kia that the Vehicles contain the Defect that, when the brakes fail, cause
18 the windows in the Vehicles to function intermittently or become inoperable, posing
19 a serious safety hazard.

20 47. Federal regulations require automobile manufacturers to build vehicles
21 that comply with the Federal Motor Vehicle Safety Standards (49 C.F.R. § 571).
22 The existence of these standards necessarily requires Kia to extensively test its
23 vehicles prior to selling them. During the course of these and other quality validation
24 testing conducted by its engineers prior to their sale, Kia became aware of the Defect.

25 48. Kia was also aware of the Defect based upon the raft of negative
26 consumer responses and reactions about the Class Vehicles, which in addition to its
27 pre-sale testing, supports an inference of knowledge—yet it continued to sell and
28 lease the Vehicles with the Defect.

1 49. Kia closely reviews Kia and Kia-related automobile message boards,
2 consumer websites, complaints on the NHTSA website, and other websites and
3 sources relating to its vehicles and defects, complaints, or other issues pertaining to
4 the Kia's vehicles, including the Class Vehicles. It specifically pays considerable
5 attention to brake or braking issues in its automobiles, as properly functioning brakes
6 and braking systems are critical safety components.

7 50. Kia specifically monitors customers' complaints made to NHTSA.
8 Federal law requires automakers like Kia to be in close contact with NHTSA
9 regarding potential automobile defects, including imposing a legal requirement
10 (backed by criminal penalties) compelling the confidential disclosure of defects and
11 related data by automakers to NHTSA, including field reports, customer complaints,
12 and warranty data. *See TREAD Act, Pub. L. No. 106-414, 114 Stat.1800 (2000).*

13 51. Automakers have a legal obligation to identify and report emerging
14 safety-related defects to NHTSA under the Early Warning Report requirements. *Id.*
15 Similarly, automakers monitor NHTSA databases for consumer complaints
16 regarding their automobiles as part of its ongoing obligation to identify potential
17 defects in their vehicles, including safety-related defects. *Id.* Thus, Kia knew or
18 should have known of the complaints about the Defect logged by NHTSA Office of
19 Defect Investigation (ODI), and the content, consistency, and number of those
20 complaints alerted, or should have alerted, Kia to the Defect.

21 52. Kia had knowledge, or should have known, about the Defect from all
22 of these sources, yet it has done nothing to remedy the Defect; continued to sell Class
23 Vehicles with a known safety issue; declined to issue a recall while, on information
24 and belief, engaging in secret warranty-like practices and buying back Vehicles from
25 consumers, or otherwise taking consumers out of their Vehicle loans or leases; and
26 has sat on its hands as Kia dealerships charge class members large sums of money
27 when class members present their Vehicles for repair of the Defect after it inevitably
28 manifests to diagnose it.

1 53. Kia had knowledge that its omissions regarding the safety and
2 performance of the Vehicle were misleading, yet it continued to make the same
3 omissions regarding the Vehicles to Plaintiffs and members of the proposed classes,
4 despite the fact that Kia knew that the Vehicles were defective.

5 54. To date, Kia has failed to remedy the Defect and continued to sell the
6 Class Vehicles despite its knowledge of the Defect.

7 55. To date, Kia has not demonstrated that it is capable of providing an
8 adequate repair for the Defect, and Plaintiffs and class members do not know
9 whether Kia is capable of providing a repair for the Defect. As such, and without the
10 benefit of discovery, it is for all practical purposes impossible to know at this time
11 whether a remedy at law or in equity will provide the appropriate full relief for
12 Plaintiffs and class members. As a result, Plaintiffs, at this stage of the litigation,
13 seek both restitution and a remedy at law, where the claims so permit. Further,
14 Plaintiffs seek an injunction enjoining Kia and its agents, servants, and employees,
15 and all persons acting under, in concert with, or for it from selling or leasing Class
16 Vehicles without notice that they are subject to the Defect, which cannot be repaired,
17 and that this remains the situation.

18 **THE LIMITED REMEDIES' FAILURE OF THEIR ESSENTIAL PURPOSE**

19 56. Given the inherently defective nature of the Vehicles and their
20 propensity to malfunction (or continue to malfunction) and require repair, and given
21 Kia's inability to repair the Defect and its non-disclosure and affirmative
22 concealment of these facts, enforcement of the unilaterally imposed durational and
23 damage limits of the express warranty would so oppress and surprise Plaintiffs and
24 class members as to render these durational and damage limits unconscionable, and
25 hence unenforceable.

26 57. Under the applicable warranty, Plaintiffs and class members are entitled
27 to the repair and replacement of defective parts. However, because the Defect
28 persists after any repairs and replacements authorized by Defendant are made, and

1 because Defendant knew that these actions were insufficient to cure the Defect,
2 Plaintiffs and class members are left without any remedy under a warranty to correct
3 the Defect. Indeed, Defendant has had numerous opportunities to correct the Defect
4 but has failed to do so.

5 58. When class members present their Vehicles for a Defect-related repair,
6 Kia is unable to remedy the Defect. Continued presentation of Vehicles by Plaintiffs
7 and class members to Kia in hopes of a repair or remedy would thus be futile. Simply
8 put, Defendant's express warranty fails its essential purpose, so that class members
9 are without the benefit of their primary bargain—reliable and operational Vehicles
10 that are safe and free of material defects.

11 59. The warranty service provided at Kia's dealerships and Kia's other
12 agents' facilities failed to fix the problems with the Vehicles. As a result of
13 Defendant's failure to properly or adequately repair the Defect, Plaintiffs suffered
14 direct and reasonably foreseeable incidental damages and did not have the benefit of
15 a safe and reliable Vehicle.

16 **TOLLING OF THE STATUTE OF LIMITATIONS AND ESTOPPEL**

17 60. Any applicable statute of limitations has been tolled by Defendant's
18 knowing and active concealment of the Defect and misrepresentations and omissions
19 alleged herein. Through no fault or lack of diligence, Plaintiffs and members of the
20 class were deceived regarding the Class Vehicles and could not reasonably discover
21 the Defect or Defendant's deception with respect to the Defect.

22 61. Plaintiffs and class members did not discover and did not know of any
23 facts that would have caused a reasonable person to suspect that the Defendant was
24 concealing a defect and/or the Class Vehicles contained the Defect and the
25 corresponding safety risk. As alleged herein, the existence of the Defect was material
26 to Plaintiffs and members of the Class at all relevant times. Within the time period
27 of any applicable statutes of limitations, Plaintiffs and members of the Class could
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1 not have discovered—through the exercise of reasonable diligence—the existence
2 of the Defect or that the Defendant was concealing the Defect.

3 62. At all times, Defendant is and was under a continuous duty to disclose
4 to Plaintiffs and class members the true standard, quality, and grade of the Class
5 Vehicles and to disclose the Defect and corresponding safety risk due to their
6 exclusive and superior knowledge of the existence and extent of the Defect in
7 Class Vehicles.

8 63. Defendant knowingly, actively, and affirmatively concealed the facts
9 alleged herein, and the Defect itself. Plaintiffs and class members reasonably relied
10 on Defendant's knowing, active, and affirmative concealment.

11 64. For these reasons, all applicable statutes of limitation have been tolled
12 based on the discovery rule and Defendant's fraudulent concealment, and Defendant
13 is estopped from relying on any statutes of limitations.

CLASS ACTION ALLEGATIONS

15 65. Plaintiffs, individually and as a class action on behalf of similarly
16 situated purchasers and lessees of the Vehicles pursuant to Federal Rule of Civil
17 Procedure 23(b)(2) and (3), seek to represent the following class:

Nationwide Class

All owners and lessees of Kia's model year 2020-2024 Telluride automobiles purchased or leased in the United States and its territories.

21 66. In the alternative, Plaintiffs seek to represent the following state
22 classes:

Kansas Class

All owners and lessees of Kia's model year 2020-2024 Telluride automobiles purchased or leased in the state of Kansas.

Texas Class

All owners and lessees of Kia's model year 2020-2024 Telluride automobiles purchased or leased in the state of Texas.

1 67. Excluded from these classes are Defendant, as well as Defendant's
2 affiliates, employees, officers and directors, and the Judge to whom this case is
3 assigned. Plaintiffs reserve the right to amend the definition of the classes if
4 discovery and/or further investigation reveal that the classes should be expanded or
5 otherwise modified.

6 68. Certification of Plaintiffs' claims for class-wide treatment is
7 appropriate because Plaintiffs can prove the elements of their claims on a class-wide
8 basis using the same evidence as would be used to prove those elements in individual
9 actions alleging the same claims.

10 69. **Numerosity:** The members of the Class are so numerous that joinder
11 of all class members in a single proceeding would be impracticable. While the exact
12 number and identities of individual members of the class is unknown at this time,
13 such information being in the sole possession of Kia and obtainable by Plaintiffs
14 only through the discovery process, Plaintiffs believe, and on that basis allege that
15 tens of thousands of Vehicles have been sold and leased in the United States.

16 70. **Existence/Predominance of Common Questions of Fact and Law:**
17 Common questions of law and fact exist as to all class members and predominate
18 over questions affecting only individual class members. Such common questions of
19 law or fact include, *inter alia*:

- 20 a. whether Kia engaged in the conduct alleged herein;
21 b. whether Kia omitted and misrepresented material facts to
22 purchasers and lessees of Class Vehicles;
23 c. whether Kia's omissions and misrepresentations regarding the
24 Class Vehicles were likely to mislead a reasonable consumer;
25 d. whether Kia breached warranties with Plaintiffs and the other
26 class members—including the implied warranty of
27 merchantability—when it produced, distributed, and sold the
28 Class Vehicles;

- 1 e. whether Plaintiffs' and other class members' Vehicles were
- 2 worth less than as represented as a result of the Defect and
- 3 conduct alleged herein;
- 4 f. whether Plaintiffs and the other class members have been
- 5 damaged and, if so, the extent of such damages; and
- 6 g. whether Plaintiffs and the other class members are entitled to
- 7 equitable relief, including but not limited to, restitution and
- 8 injunctive relief.

9 71. Kia engaged in a common course of conduct giving rise to the legal
10 rights sought to be enforced by Plaintiffs individually and on behalf of the other class
11 members. Similar or identical statutory and common law violations, business
12 practices, and injuries are involved. Individual questions, if any, are substantially
13 overcome, in both quality and quantity, by the numerous common questions that
14 dominate this action.

15 72. **Typicality:** Plaintiffs' claims are typical of the claims of the other class
16 members because, among other things, Plaintiffs and the other class members were
17 injured through the substantially uniform misconduct described above. As with
18 Plaintiffs, class members also purchased or leased a Class Vehicle containing the
19 Defect. Plaintiffs are advancing the same claims and legal theories on behalf of
20 themselves and all other class members, and no defense is available to Kia that is
21 unique to Plaintiffs. The same events giving rise to Plaintiffs' claims for relief are
22 identical to those giving rise to the claims of all class members. Plaintiffs and all
23 class members sustained monetary and economic injuries including, but not limited
24 to, ascertainable losses arising out of Kia's wrongful conduct in selling/leasing and
25 failing to remedy the Class Vehicles.

26 73. **Adequacy:** Plaintiffs are adequate class representatives because they
27 will fairly represent the interests of the class. Plaintiffs have retained counsel with
28 substantial experience in prosecuting consumer class actions, including consumer

1 fraud and automobile defect class action cases. Plaintiffs and their counsel are
2 committed to prosecuting this action vigorously on behalf of the class they seek to
3 represent and have the resources to do so. Plaintiffs nor their counsel have any
4 interest adverse or antagonistic to those of the class.

5 **74. Superiority:** A class action is superior to any other available means for
6 the fair and efficient adjudication of this controversy, and no unusual difficulties are
7 likely to be encountered in the management of this class action. The damages or
8 other detriment suffered by Plaintiffs and the other class members are relatively
9 small compared to the burden and expense that would be required to individually
10 litigate their claims against Kia, so it would be impracticable for class members to
11 individually seek redress for Kia's wrongful conduct. Even if class members could
12 afford individual litigation, the court system should not be required to undertake
13 such an unnecessary burden. Individualized litigation would also create a potential
14 for inconsistent or contradictory judgments and increase the delay and expense to all
15 parties and the court system. By contrast, the class action device presents no
16 significant management difficulties, if any, and provides the benefits of single
17 adjudication, economy of scale, and comprehensive supervision by a single court.

18 75. Defendant has acted and refused to act on grounds generally applicable
19 to the Classes, making appropriate final injunctive relief with respect to the Classes
20 as a whole.

21 76. Upon information and belief, class members can be readily identified
22 and notified based upon, *inter alia*, the records (including databases, e-mails,
23 dealership records and files, etc.) Kia maintains regarding its sales and leases of
24 Class Vehicles.

25 77. Unless the classes are certified, Defendant will improperly retain
26 monies that they received from Plaintiffs and members of the classes as a result of
27 its conduct. Unless Defendant is required to change its conduct, it will continue to
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1 commit the violations and acts alleged herein and the members of the class and the
2 general public will continue to be misled and harmed.

3 **CAUSES OF ACTION**

4 **COUNT I**

5 **Breach of the Implied Warranty of Merchantability**
6 **(On Behalf of the Nationwide Class or,
in the alternative, the Kansas and Texas Classes)**

7 78. Plaintiffs reallege and incorporate by reference the preceding
8 paragraphs as if fully set forth herein.

9 79. Plaintiffs Raymond and O'Brien bring this claim on behalf of the
10 Nationwide Class or, in the alternative, under the laws of the states where they
11 purchased or leased their Vehicles.

12 80. Defendant is and was at all relevant times a merchant with respect to
13 the Vehicles, and manufactured, distributed, warranted, and sold the Vehicles.

14 81. A warranty that the Vehicles were in merchantable condition and fit for
15 the ordinary purposes for which they were sold is implied by law.

16 82. Plaintiffs and the other class members purchased the Vehicles
17 manufactured and sold by Defendant in consumer transactions.

18 83. The Vehicles, when sold and at all times thereafter, were not in
19 merchantable condition, and the brakes and/or brake systems were not in
20 merchantable condition and were not fit for the ordinary purpose for which cars are
21 used. The Vehicles left Defendant's possession and control with the Defect that
22 rendered them at all times thereafter unmerchantable, unfit for ordinary use, unsafe,
23 and a threat to safety.

24 84. Kia knew before the time of sale to Plaintiffs and the other class
25 members, or earlier, that the Vehicles were produced with defective brakes or brake
26 systems that are unfit for ordinary use, that rendered the Vehicles unfit for their
27 ordinary purposes, and that posed a serious safety threat to drivers, passengers, and
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1 everyone else sharing the road with the Vehicles. This knowledge was based on
2 Defendant's own industry standard internal validation of its vehicles prior to
3 launching new models, internal testing, knowledge about and familiarity with the
4 power window systems included in the Vehicles, history of similar problems with
5 similar automatic windows malfunctioning or failing in prior models, and
6 complaints by consumers and third parties.

7 85. The existence and ubiquity of the Defect is illustrated by the numerous
8 publicized consumer complaints, disputes, and failed remedial measures nationwide.

9 86. Despite Plaintiffs' and the other class members' normal, ordinary, and
10 intended uses, maintenance, and upkeep, the brakes or brake systems in the Vehicles
11 experienced and continue to experience the Defect and premature failure.

12 87. The brakes and brake systems in the Vehicles and the Vehicles
13 themselves are, and at all times and were, not of fair or average quality, and would
14 not pass without objection.

15 88. All conditions precedent have occurred or been performed.

16 89. Plaintiffs and class members have used their Vehicles in a manner
17 consistent with the Vehicles' intended use, and have performed each and every duty
18 required under Kia's warranty, including presentment, except as may have been
19 excused or prevented by the conduct of Defendant or by operation of law in light of
20 Defendant's unconscionable conduct described throughout this Complaint.

21 90. Defendant received timely notice regarding the problems at issue in this
22 litigation and, notwithstanding such notice, has failed and refused to offer an
23 effective remedy.

24 91. In addition, upon information and belief, Defendant received numerous
25 complaints, notices of the need for repair and resulting safety issues, and requests
26 for warranty repairs and coverage relating to the Defect from other members of
27 the class. Upon information and belief, Kia also engages in buy backs and secretly

1 rectifies the Defect when it manifests in the Vehicles and consumers complain about
2 it.

3 92. In its capacity as a supplier and/or warrantor, and by the conduct
4 described herein, any attempt by Defendant to disclaim or otherwise limit express
5 warranties in a manner that would exclude or limit coverage for the Defect that was
6 present at the time of sale and/or lease, which Defendant knew about prior to offering
7 the Vehicles for sale and/or lease, and which Defendant did not disclose and did not
8 remedy prior to (or after) sale and/or lease, is unconscionable, and Defendant should
9 be estopped from pursuing such defenses.

10 93. Further, any such effort by Defendant to disclaim or otherwise limit
11 liability for the Defect is null and void because Kia and its authorized agents (the
12 dealers) have wrongfully, uniformly, and repeatedly refused and failed recall or issue
13 a permanent fix for the Defect.

14 94. Specifically, Defendant's warranty disclaimers, exclusions, and
15 limitations, to the extent that they may be argued to apply, were, at the time of sale,
16 and continue to be, unconscionable and unenforceable to disclaim liability for a
17 known, latent defect. Defendant knew when it first made these warranties and their
18 limitations that the defect existed, and the warranties might expire before a
19 reasonable consumer would notice or observe the defect. Defendant also failed to
20 take necessary actions to adequately disclose or cure the Defect after the existence
21 of the Defect came to the public's attention and sat on its reasonable opportunity to
22 cure or remedy the Defect, its breaches of warranty, and consumers' losses. Under
23 these circumstances, it would be futile to enforce any informal resolution procedures
24 or give Defendant any more time to cure the Defect or cure its breaches of warranty.

25 95. As such, Defendant should be estopped from disclaiming liability for
26 its actions.

27 96. Privity of contract is not required for consumer implied warranty claims
28 under the relevant laws. However, Plaintiffs and the other class members had

1 sufficient direct dealings with Defendant and its agents (dealers) to establish privity
2 of contract.

3 97. Kia's authorized dealers are agents of Kia, and there is a factually
4 plausible agency relationship between Kia and its dealerships. This agency is
5 factually supported by at least the following: 1) Kia's warranty directs Class Vehicle
6 owners to present their vehicles to Kia authorized dealerships for repairs; and 2) Kia
7 requires dealerships to submit detailed data to it regarding repairs performed at
8 dealerships. These considerations demonstrate the agency relationship between Kia
9 and its dealerships, with whom Plaintiffs interacted and transacted as alleged herein.

10 98. Privity is also not required in this case because Plaintiffs and the other
11 class members are intended third-party beneficiaries of contracts between Defendant
12 and its dealers (i.e., its agents); specifically, they are the intended beneficiaries of
13 Defendant's implied warranties. The dealers were not intended to be the ultimate
14 consumers of the Vehicles; the warranty agreements were designed for, and intended
15 to benefit, only the ultimate consumers—such as Plaintiffs and the other class
16 members. Privity is also not required because Plaintiffs' and the other class
17 members' Vehicles are inherently dangerous due to the aforementioned defect and
18 nonconformities.

19 99. Kia also had direct dealings with Plaintiffs and class members by
20 providing warranties directly to Plaintiffs and class members. Kia provided the
21 NVLW directly to Plaintiffs and class members, creating privity between the
22 parties.

23 100. Plaintiffs and the other class members suffered and will suffer
24 diminution in the value of their Vehicles, out-of-pocket losses related to repairing,
25 maintaining, and servicing their defective Vehicles, costs associated with arranging
26 and obtaining alternative means of transportation, and other incidental and
27 consequential damages recoverable under the law.

1 **COUNT II**
2 **Fraud/Fraudulent Omission**
3 **(On Behalf of the Nationwide Class or, in**
4 **the alternative, the Kansas and Texas Classes)**

5 101. Plaintiffs reallege and incorporate by reference the preceding
6 paragraphs as if fully set forth herein.

7 102. Plaintiffs Raymond and O'Brien bring this claim on behalf of the
8 Nationwide Class or, in the alternative, under the laws of the states where they
9 purchased or leased their Vehicles.

10 103. Defendant actively, intentionally, and knowingly concealed,
11 suppressed, and/or omitted material facts including the existence of the Defect and
12 the standard, quality, or grade of the Vehicles and the fact that the Vehicles contain
13 a Defect and corresponding safety risk, with the intent that Plaintiffs and class
14 members rely on Defendant's omissions. As a direct result of the Defendant's
15 fraudulent conduct, as alleged herein, Plaintiffs and members of the class have
suffered actual damages.

16 104. Defendant knew at the time of sale or lease and thereafter that the
17 Vehicles contained the Defect, omitted material information about the safety of the
18 Vehicles, and actively concealed the Defect. To date, Defendant has not provided
19 Plaintiffs and members of the class with an adequate repair or remedy for the Defect.

20 105. Defendant possessed superior and exclusive knowledge regarding the
21 Defect, and therefore had a duty to disclose any information relating to the safety
22 and functionality of key safety features in the Vehicles.

23 106. The Defect is material to Plaintiffs and the members of the class
24 because Plaintiffs and the members of the class had a reasonable expectation that the
25 Vehicles would not contain a Defect that causes their brakes to fail and that exposes
26 them and others to a safety risk. No reasonable consumer expects a vehicle to contain
27 a concealed defect, such as the Defect as well as its associated safety risk.

1 107. Plaintiffs and members of the class would not have purchased or leased
2 the Vehicles but for Defendant's omissions and concealment of material facts
3 regarding the nature and quality of the Vehicles and the existence of the Defect and
4 corresponding safety risk, or would have paid less for the Vehicles.

5 108. Kia knew its concealment and suppression of the Defect was false and
6 misleading, and knew the effect of concealing those material facts. Kia knew its
7 misstatements, concealment, and suppression of the Defect would sell more Vehicles
8 and would discourage Plaintiffs and the members of the Class from seeking
9 replacement or repair of the Defect during the applicable warranty periods. Further,
10 Defendant intended to induce Plaintiffs and class members into purchasing or
11 leasing the Vehicles and to discourage them from seeking replacement or repair of
12 the Defect in order to decrease costs and increase profits.

13 || 109. Defendant acted with malice, oppression, and fraud.

14 110. Plaintiffs and the members of the class reasonably relied upon
15 Defendant's knowing misrepresentations, concealment and omissions. As a direct
16 and proximate result of Defendant's misrepresentations, omissions and active
17 concealment of material facts regarding the Defect and the associated safety risk,
18 Plaintiffs and the members of the Class have suffered actual damages in an amount
19 to be determined at trial.

COUNT III
UNJUST ENRICHMENT
**(On Behalf of the Nationwide Class, or in the
alternative, the Kansas and Texas Classes)**

23 111. Plaintiffs reallege and incorporate by reference the preceding
24 paragraphs as if fully set forth herein.

25 112. Plaintiffs Raymond and O'Brien bring this claim on behalf of the
26 Nationwide Class or, in the alternative, under the laws of the states where they
27 purchased or leased their Vehicles.

1 113. This claim is pleaded in the alternative to the other claims herein, and
2 seeks restitution of ill-gotten gains.

3 114. As a direct and proximate result of Kia's omissions concerning and its
4 failure to disclose the known Defect, Kia has profited through the sale and lease of
5 the Vehicles and subsequently by profiting on the purchase of replacement parts and
6 charging Plaintiffs and other Class Members for expensive repairs to their Vehicles
7 when the brakes inevitably fail. Although these Vehicles are purchased through
8 Kia's agents, the money from the Vehicle sales flows directly back to Kia.

9 115. As a result of its wrongful acts, concealments, and omissions of the
10 Defect in its Vehicles, as set forth above, Kia charged higher price for the Vehicles
11 than the Vehicles' true value. Plaintiffs and members of the class paid that higher
12 price for their Vehicles to Kia's authorized distributors and dealers, which are in
13 Kia's control.

14 116. Additionally, as a direct and proximate result of Kia's failure to disclose
15 known Defect in the Vehicles, Plaintiffs and class members have Vehicles that will
16 require high-cost repairs that can and therefore have conferred an unjust substantial
17 benefit upon Kia.

18 117. Kia has been unjustly enriched due to the known Defect in the Vehicles
19 through the receipt and use of money paid for the defective vehicles, sale of
20 replacement parts, and performance of repairs, that added to Kia's profits when said
21 money should have remained with Plaintiffs and the class members.

22 118. As a result of Kia's unjust enrichment, Plaintiffs and the class members
23 have suffered damages.

24 119. Equity and good conscience militate against allowing Kia to retain its
25 ill-gotten gains, and requires disgorgement and restitution of the same.

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COUNT IV
VIOLATION OF THE KANSAS CONSUMER PROTECTION ACT
Kan. Stat. § 50-623, *et seq.*
(On Behalf of Plaintiff O'Brien and the Kansas Class)

120. Plaintiffs reallege and incorporate by reference the preceding paragraphs as if fully set forth herein.

121. This claim is brought on behalf of Plaintiff O'Brien and the Kansas Class members.

122. Kia's conduct constituted, among other things, the following prohibited, deceptive and unfair business practices: (a) knowingly representing that property or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have; (b) knowingly representing that property or services are of particular standard, quality, grade, style or model, if they of another which differs materially from the representation; (c) knowingly representing that property or services has uses, benefits or characteristics unless the supplier relied upon and possesses a reasonable basis for making such representation; (d) knowingly representing that use, benefit or characteristic of property or services has been proven or otherwise substantiated unless the supplier relied upon and possesses the type and amount of proof or substantiation represented to exist; (e) the willful use, in any oral or written representation, of exaggeration, falsehood, innuendo or ambiguity as to a material fact; and (f) the willful failure to state a material fact, or the willful concealment, suppression, or omission of a material fact. Kan. Stat. § 50-626.

123. Kia's conduct constituted, among other things, the following unconscionable methods, acts or practices in the conduct of trade or commerce: (a) Kia knowingly or with reason to know, took advantage of the inability of the consumer reasonably to protect the consumer's interests because of the consumer's physical infirmity, ignorance, illiteracy, inability to understand the language of an

1 agreement or similar factor; (b) Kia knew or had reason to know the consumer was
2 unable to receive a material benefit from the subject of the transaction; and (c) Kia
3 knew or had reason to know the transaction the supplier induced the consumer to
4 enter into was excessively one sided in favor of the supplier; and (d) Kia knew or
5 had reason to know it made a misleading statement of opinion on which the
6 consumer was likely to rely to the consumer's detriment. Kan. Stat. § 50-627.

7 124. Kia's conduct was fraudulent and deceptive because the omissions
8 created a likelihood of confusion and misunderstanding and had the capacity or
9 tendency to deceive and, in fact, did deceive, ordinary consumers, including Kansas
10 Plaintiff. Ordinary consumers, including Kansas Plaintiff, would have found it
11 material to their purchasing decisions that the Class Vehicle suffered from the brake
12 defect.

13 125. Kia owed Kansas Plaintiff and Kansas Subclass members, among
14 others, a duty to disclose these facts because they were known and/or accessible
15 exclusively to it.

16 126. Kansas Plaintiff and members of the Kansas Subclass justifiably relied
17 on the material misrepresentations and/or omissions by Kia, and reasonable
18 consumers would have been expected to rely upon these omissions, in part, because
19 they are omissions that impact seriously on a consumer's health and well-being.

20 127. Kia's conduct actually and proximately caused an ascertainable loss of
21 money or property to Kansas Plaintiff (as set forth above) and members of the
22 Kansas Subclass. Absent Kia's unfair, deceptive, unconscionable and/or fraudulent
23 conduct, Kansas Plaintiff and Kansas Subclass members would have behaved
24 differently and would not have purchased, leased, or reimbursed payment for the
25 Class Vehicles. Kia's omissions induced Kansas Plaintiff and Kansas Subclass
26 members to purchase, lease, or reimburse payment for the Class Vehicles.

27 128. Accordingly, pursuant to Kan. Stat. § 50-623, Kansas Plaintiff and
28 Kansas Subclass members are entitled to recover their actual damages, which can be

1 calculated with a reasonable degree of certainty using sufficiently definitive and
2 objective evidence.

PRAYER FOR RELIEF

4 WHEREFORE, Plaintiffs, on behalf of themselves and members of the
5 proposed classes, pray for judgment as follows:

- a) Certification of the classes under Federal Rule of Civil Procedure 23;
 - b) Appointment of Plaintiffs as representatives of classes and their counsel as class counsel;
 - c) Compensatory and other damages for economic and non-economic damages;
 - d) An award of restitution and/or disgorgement;
 - e) An injunction requiring Defendant to cease and desist from engaging in the alleged wrongful conduct and to engage in a corrective advertising campaign;
 - f) Statutory pre-judgment and post-judgment interest on any amounts;
 - g) Payment of reasonable attorneys' fees and recoverable litigation expenses as may be allowable under applicable law; and
 - h) Such other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all causes of action so triable.

Dated: December 18, 2024

Respectfully submitted,

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